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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/522,421 03/09/2000		Jacek Stachurski	T1-29010	4064	
23494	7590 12/17/2002				
	TRUMENTS INCORP	EXAM	EXAMINER		
P O BOX 655 DALLAS, TX	474, M/S 3999 75265	CHAWAN, VIJAY B			
			ART UNIT	PAPER NUMBER	
		2654			
		DATE MAILED: 12/17/2002	DATE MAILED: 12/17/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application	n New	Applicant(s)					
Office Action Summary		09/522,42	1	STACHURSKI ET AL.					
		Office Action Summary	Examiner		Art Unit				
W)		Vijay B. Cl		2654				
Peri		The MAILING DATE of this communication app Reply	ears on the	cover sheet with the co	orrespondence a	ddress			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status									
	I) ⊠	Responsive to communication(s) filed on <u>01 C</u>	October 200	02 .					
	a) 🖂	This action is FINAL . 2b) Thi							
	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.								
Disposition of Claims									
4	↓)⊠ (Claim(s) $1-4$ is/are pending in the application.							
	4a) Of the above claim(s) is/are withdrawn from consideration.								
5	5) Claim(s) is/are allowed.								
ϵ	6)⊠ Claim(s) <u>1-4</u> is/are rejected.								
7	7)□ (Claim(s) is/are objected to.							
8	3)□ (Claim(s) are subject to restriction and/or	election re	equirement.					
App	licatio	n Papers							
9	9)□ T	he specification is objected to by the Examiner	·.						
10)) 🗌 T	he drawing(s) filed on is/are: a)□ accep	ted or b)	objected to by the Exar	niner.				
		Applicant may not request that any objection to the							
11)☐ The proposed drawing correction filed on is: a)☐ approved b)☐ disapproved by the Examiner.									
If approved, corrected drawings are required in reply to this Office action.									
12	2)∐ ⊤	he oath or declaration is objected to by the Exa	aminer.		·				
	•	nder 35 U.S.C. §§ 119 and 120							
13	3)□ /	Acknowledgment is made of a claim for foreign	priority un	der 35 U.S.C.⋅§ 119(a))-(d) or (f).				
	a)[] All b)☐ Some * c)☐ None of:							
	1. Certified copies of the priority documents have been received.								
	2. Certified copies of the priority documents have been received in Application No								
	 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 								
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).									
a) The translation of the foreign language provisional application has been received.									
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s)									
1) 🔲	Notice Notice	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449) Paper No(s)			(PTO-413) Paper No Patent Application (P				

Application/Control Number: 09/522,421

Art Unit: 2654

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: The term "replace" a strong predictor following a weak predictor with a weak predictor is unclear. Replace to do what?. Appropriate correction is required.

Claim Rejections - 35 USC § 112

- The following is a quotation of the second paragraph of 35 U.S.C. 112:
 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 4. Claims 1-4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 5. Claims 1-4 provide for the use of strong and weak predictors, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass and claim. A claim is

indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

6. Claim 1 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by McCree (5,966,689).

As per claims 1 - 4, McCree teaches an encoding system using strong and weak predictors, comprising the step of: replace a strong predictor following a

Art Unit: 2654

weak predictor with a weak predictor using pitch harmonics in a given range, (Col., line 21 - Col.6, line 48).

Page 4

Response to Arguments

- Applicant's arguments filed 10/1/02 have been fully considered but they are 9. not persuasive.
- Applicant's arguments with respect to claims 1-4 have been considered but 10. are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection 11. presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

Application/Control Number: 09/522,421

Art Unit: 2654

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Vijay B. Chawan whose telephone number is

(703) 305-3836. The examiner can normally be reached on Monday Through

Thursday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379.

The fax phone numbers for the organization where this application or proceeding is

assigned are (703) 872-9314 for regular communications and (703) 872-9314 for

After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703)

305-4700.

Vijay Behaux Vijay B. Chawan 12/16/02

Primary Examiner

Art Unit 2654

vbc

December 16, 2002

VIJAY CHAWAN PRIMARY EXAMINER Page 5